

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

July 21, 2005

A meeting of the Board of Environmental Protection was held on Thursday, July 21, 2005, at the Holiday Inn / Ground Round in Augusta, Maine. Matthew Scott, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Elizabeth Ehrenfeld, Donald Guimond, Ernest Hilton, Matt Scott, Jean T. Wilkinson, and Nancy Ziegler

Absent: Nancy Anderson, Denis Culley, Virginia Plummer and Richard Wardwell

<u>Staff:</u>	<u>Bureau of Air Quality</u>	Ronald Severance
	<u>Bureau of Air Quality</u>	Jeffrey Crawford
	<u>Bureau of Remediation and Waste Management</u>	John Mitchell
	<u>Bureau of Remediation and Waste Management</u>	Jay Duncan
	<u>Bureau of Land and Water Quality</u>	Judy Gates
	<u>Bureau of Land and Water Quality</u>	Lisa-Kay Keen

Others: David P. Littell, Deputy Commissioner
Dennis Harnish, Assistant Attorney General
Cynthia Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 2:30 p.m.)

Draft

I. DEPARTMENTAL**A. COMMISSIONER'S COMMENTS:** Deputy Commissioner David Littell reported the following:

Bonds: Legislative leadership has reached agreement on a bond package of \$83 million dollars. Hearings on this bond package will be held on Monday, July 25th. The environmental portion of this bond package is \$10 million of which the Department's portion is \$3.6 million. The \$3.6 million is not sufficient to support all programs currently being implemented by the Department. This bond package would eliminate the wastewater treatment plant program (Small Community Grants Program) and would negatively impact the uncontrolled sites clean-up program.

MERC: The cities of Biddeford and Saco want the incinerator to close down. The Governor has asked Commissioner Gallagher to chair a Maine Energy Recovery Company (MERC) task force charged to report back on 1) the economic development impacts to the communities of Saco and Biddeford (*should the facility remain in operation*) and 2) future solid waste impacts (*should the facility close*). Casella has proposed a \$28 million buy-out of this facility in 10-years if a buy-out is to move forward. Both Saco and Biddeford are working on a buy-out and each has proposed a \$10 million bond issue going to their voters in the fall.

Maine Potato Board: The Potato Board recently hosted a legislative and administrative agency tour in Aroostook County. During the three day event two main agricultural issues were discussed – water withdrawal and agricultural waste disposal. The potato industry has worked proactively on the water withdrawal issue by implementing the Aroostook County Water Withdrawal Policy to address water use issues before a mandatory regulatory program is in place. Additionally, the Department is examining concerns raised by citizen complaints related to waste management at cull potato and concentrated animal feeding operations (CAFO) and the potential to impact water quality.

Residential Wood Boilers: The Department has noted that as a result of increased oil prices there is a marked increase in the use of outside wood boilers. These boilers are marketed to burn demolition debris and designed to get maximum Btu from the wood product burned. These boilers present air quality issues because of incomplete combustion and low stacks – (8 foot stack) the dispersion of smoke is minimal creating localized air quality problems. Maine has asked the Environmental Protection Agency (EPA) to implement national regulations on these units, which are currently unregulated. EPA has declined to address this pollution source and the Department is consulting with the Attorney General's Office on whether to file suit against EPA for failure to establish regulations under the Clean Air Act.

Questions: Board member Nancy Ziegler asked why Maine doesn't develop regulations to address the residential wood boiler unit. – follow up question: Would State standards yield voluntary compliance?

Deputy Commissioner David Littell explained that the Department does not have adequate resources to develop a rule that may not comply with future national or regional standards, and that product design specifications such as this are best addressed on a national or regional level. National standards would be delegated to the State w/funding resources for implementation and compliance. He questioned whether persons would voluntarily comply and whether the state would have the resources to enforce such a rule, particularly if other states did not follow suit.

Board member Ernest Hilton asked why the Department would wish to regulate this type of unit as opposed to the units used inside a house/structure?

Mr. Littell explained that the US EPA regulates units used to burn wood (wood stoves) inside structures and typically those units emit through a stack some 25 to 40 feet high, allowing for better dispersion of emissions. Mr. Littell further elaborated that the Department prefers either national standards or regional rules supported by the Northeastern States for Coordinated Air Management (NESCOUM).

B. CHAIRMAN'S COMMENTS: Thanks to board member Hilton for chairing the last board meeting.

C. EXECUTIVE ANALYST COMMENTS: Uliano: Law Court has remanded this case to the Board. The Board denied [on appeal] an application for a permanent dock on Mt. Desert Island. Board staff will be meeting with Peggy Bensinger and Judy Gates to discuss procedure for consideration by the Board.

Note: Copies of the decision were made available to Board members.

D. BOARD CALENDAR: Reviewed

E. DEPARTMENTAL ORDERS: Reviewed

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS

The Board voted (6-0-0-4) on a motion to approve consent agenda item 1as presented.

Board members Elizabeth Ehrenfeld, Donald Guimond, Ernest Hilton, Matt Scott, Jean T. Wilkinson, and Nancy Ziegler voted to support the motion. Board members Nancy Anderson, Denis Culley, Virginia Plummer and Richard Wardwell were absent.

1. SAM'S EAST, INC., Augusta, Bangor, and Scarborough – Administrative Consent Agreement (OC)

III. Regular Agenda

1. ARTHUR CHOATE, TIER I APPROVAL L-22244-TA-A-N (appeal by Landon Thomas and Fred Thomas)

Staff: Lisa-kay Keen, Bureau of Land Water Quality

The Board voted (4-2-0-4) on a motion to deny the appeal of Landon and Fred Thomas, affirm the Commissioner's decision approving L-22244-TA-A-N, and modify the proposed draft order deleting reference to the avoidance standard of the Wetland Protection Rules (Chapter 310). The vote was taken pursuant to 38 M.R.S.A. Sections 341-D(4) and 480-A to 480-Z and 06-096 Chapters 2 and 310.

Board members Elizabeth Ehrenfeld, Don Guimond, Matt Scott and Nancy Ziegler voted to support the motion. Board members Ernest Hilton and Jean T. Wilkinson voted opposed. Board members Nancy Anderson, Denis Culley, Virginia Plummer and Richard Wardwell were absent.

2. CHAPTER 151, ARCHITECTURAL AND INDUSTRIAL MAINTENANCE (AIM) COATINGS / AMENDMENT (post to written comment)

Staff: Jeffrey Crawford, Bureau of Air Quality

The Board voted (6-0-0-4) on a motion to post to 30-day written public comment the amendments to Chapter 151, Architectural and Industrial Maintenance (AIM) Coatings rule. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D and 585-A.

Board members Elizabeth Ehrenfeld, Donald Guimond, Ernest Hilton, Matt Scott, Jean T. Wilkinson and Nancy Ziegler voted to support the motion. Board members Nancy Anderson, Denis Culley, Virginia Plummer and Richard Wardwell were absent.

Briefing:

Regional Greenhouse Gas Initiative (RGGI)

Staff: James P. Brooks, Director, Bureau of Air Quality

Note: This item was withdrawn to be rescheduled at a future meeting

3. HOULTON WATER COMPANY / SLUDGE UTILIZATION A. FITZPATRICK SITE
(appeal by Lorraine and Theodore Shaw, Mike and Cecelia Brown, Larry Schools,
Donald and Marie McAfee, Larry McAfee, Keith and Madolyn Boutilier, Ed and Jane
Fitzpatrick and Gary and Mary Bennett)

Staff: John Mitchell, Bureau of Remediation and Waste Management

The Board voted (6-0-0-4) on a motion to deny appeal of Lorraine and Theodore Shaw, Mike and Cecelia Brown, Larry Schools, Donald and Marie McAfee, Larry McAfee, Keith and Madolyn Boutilier, Ed and Jane Fitzpatrick and Gary and Mary Bennett and approve the draft proposed order modifying the conclusions to find that the appellants had standing and to add a condition requiring the licensee to file a summary site plan that depicts areas where sludge can and cannot be applied. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D and 1301 et seq. and 06-096 CMR Chapters 2 and 400-419.

Board members Elizabeth Ehrenfeld, Donald Guimond, Ernest Hilton, Matt Scott, Jean T. Wilkinson and Nancy Ziegler voted to support the motion. Board members Nancy Anderson, Denis Culley, Virginia Plummer and Richard Wardwell were absent.

Next Regular Board Meeting – Thursday, August 11, 2005 – Holiday Inn West, Portland

BOARD OF ENVIRONMENTAL PROTECTION
Holiday Inn / Ground Round, Augusta at 9:00 a.m.

July 21, 2005

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

ADMINISTRATIVE CONSENT AGREEMENT:

Proposed wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S.A. §347-A(6)

Fort Fairfield Utilities District, Fort Fairfield (Staff: Dennis Merrill 287-7788)
Richard Hasson, David Berry and Barbara Hitt, Peaks Island (Staff: Phil Garwood 287-7695)
Evergreen Realty Trust, Alfred & Barbara Kenworthy, Peaks Island (Staff: Phil Garwood 287-7695)

Tentatively scheduled for Board action on September 8, 2005

II. CONSENT AGENDA ITEMS

- 003 1. SAM'S EAST, INC., Augusta, Bangor, and Scarborough – Administrative Consent Agreement (OC)

III. REGULAR AGENDA ITEMS

- 007 1. ARTHUR CHOATE, TIER I APPROVAL L-22244-TA-A-N (appeal by Landon Thomas and Fred Thomas)
Staff: Lisa-Kay, Bureau of Land Water Quality
- 081 2. CHAPTER 151, ARCHITECTURAL AND INDUSTRIAL MAINTENANCE (AIM) COATINGS / AMENDMENT (post to written comment)
Staff: Jeffrey Crawford, Bureau of Air Quality

Briefing:

Regional Greenhouse Gas Initiative (RGGI)
Staff: James P. Brooks, Director, Bureau of Air Quality

BOARD TO RECONVENE AT 1:00 TO CONSIDER THE REMAINDER OF THE AGENDA

- 103 4. HOULTON WATER COMPANY / SLUDGE UTILIZATION A. FITZPATRICK SITE
(appeal by Lorraine and Theodore Shaw, Mike and Cecelia Brown, Larry
Schools, Donald and Marie McAfee, Larry McAfee, Keith and Madolyn Boutilier,
Ed and Jane Fitzpatrick and Gary and Mary Bennett)
Staff: John Mitchell, Bureau of Remediation and Waste Management

Next Regular Board Meeting – Thursday, August 11, 2005 – Holiday Inn, West - Portland